

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

SECOND SESSION

**LEGISLATIVE BILL 420**

FINAL READING

(THIRD)

Introduced by Hadley, 37; Christensen, 44; Gay, 14.

Read first time January 20, 2009

Committee: Revenue

A BILL

1 FOR AN ACT relating to revenue and taxation; to amend section  
2 77-2704.12, Reissue Revised Statutes of Nebraska;  
3 to change provisions relating to sales and use tax  
4 exemptions for certain nonprofit entities; and to repeal  
5 the original section.

6 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 77-2704.12, Reissue Revised Statutes  
2 of Nebraska, is amended to read:

3           77-2704.12 (1) Sales and use taxes shall not be imposed  
4 on the gross receipts from the sale, lease, or rental of and the  
5 storage, use, or other consumption in this state of purchases by  
6 (a) any nonprofit organization created exclusively for religious  
7 purposes, (b) any nonprofit organization providing services  
8 exclusively to the blind, (c) any nonprofit private educational  
9 institution established under sections 79-1601 to 79-1607, (d) any  
10 nonprofit private college or university established under sections  
11 85-1101 to 85-1111, (e) any nonprofit (i) hospital, (ii) health  
12 clinic when two or more hospitals or the parent corporations of  
13 the hospitals own or control the health clinic for the purpose of  
14 reducing the cost of health services or when the health clinic  
15 receives federal funds through the United States Public Health  
16 Service for the purpose of serving populations that are medically  
17 underserved, (iii) skilled nursing facility, (iv) intermediate care  
18 facility, (v) assisted-living facility, (vi) intermediate care  
19 facility for the mentally retarded, (vii) nursing facility, (viii)  
20 home health agency, (ix) hospice or hospice service, or (x) respite  
21 care service licensed under the Health Care Facility Licensure Act,  
22 (f) any nonprofit licensed child-caring agency, (g) any nonprofit  
23 licensed child placement agency, or (h) any nonprofit organization  
24 certified by the Department of Health and Human Services to  
25 provide community-based services for persons with developmental

1 disabilities.

2 (2) Any organization listed in subsection (1) of this  
3 section shall apply for an exemption on forms provided by the  
4 Tax Commissioner. The application shall be approved and a numbered  
5 certificate of exemption received by the applicant organization in  
6 order to be exempt from the sales and use tax.

7 (3) The appointment of purchasing agents shall be  
8 recognized for the purpose of altering the status of the  
9 construction contractor as the ultimate consumer of building  
10 materials which are physically annexed to the structure and  
11 which subsequently belong to the owner of the organization or  
12 institution. The appointment of purchasing agents shall be in  
13 writing and occur prior to having any building materials annexed  
14 to real estate in the construction, improvement, or repair. The  
15 contractor who has been appointed as a purchasing agent may apply  
16 for a refund of or use as a credit against a future use tax  
17 liability the tax paid on inventory items annexed to real estate  
18 in the construction, improvement, or repair of a project for a  
19 licensed not-for-profit institution.

20 (4) Any organization listed in subsection (1) of this  
21 section which enters into a contract of construction, improvement,  
22 or repair upon property annexed to real estate without first  
23 issuing a purchasing agent authorization to a contractor or  
24 repairperson prior to the building materials being annexed to  
25 real estate in the project may apply to the Tax Commissioner for

1 a refund of any sales and use tax paid by the contractor or  
2 repairperson on the building materials physically annexed to real  
3 estate in the construction, improvement, or repair.

4 (5) Any person purchasing, storing, using, or  
5 otherwise consuming building materials in the performance of any  
6 construction, improvement, or repair by or for any institution  
7 enumerated in subsection (1) of this section which is licensed upon  
8 completion although not licensed at the time of construction or  
9 improvement, which building materials are annexed to real estate  
10 and which subsequently belong to the owner of the institution,  
11 shall pay any applicable sales or use tax thereon. Upon becoming  
12 licensed and receiving a numbered certificate of exemption,  
13 the institution organized not for profit shall be entitled to  
14 a refund of the amount of taxes so paid in the performance  
15 of such construction, improvement, or repair and shall submit  
16 whatever evidence is required by the Tax Commissioner sufficient  
17 to establish the total sales and use tax paid upon the building  
18 materials physically annexed to real estate in the construction,  
19 improvement, or repair.

20 (6) Subsections (1) through (5) of this section apply to  
21 transactions occurring before July 1, 2013. Subsections (7) through  
22 (15) of this section apply to transactions occurring on or after  
23 July 1, 2013.

24 (7) Sales and use taxes shall not be imposed on the  
25 gross receipts from the sale, lease, or rental of and the storage,

1 use, or other consumption in this state of purchases by (a) any  
2 nonprofit organization created exclusively for religious purposes,  
3 (b) any nonprofit organization providing services exclusively  
4 to the blind, (c) any nonprofit private educational institution  
5 established under sections 79-1601 to 79-1607, or (d) any nonprofit  
6 private college or university established under sections 85-1101 to  
7 85-1111.

8 (8) Sales and use taxes shall not be imposed on the  
9 gross receipts from the sale, lease, or rental of and the storage,  
10 use, or other consumption in this state of purchases by (a)  
11 any nonprofit licensed child-caring agency, (b) any nonprofit  
12 licensed child placement agency, or (c) any nonprofit organization  
13 certified by the Department of Health and Human Services to  
14 provide community-based services for persons with developmental  
15 disabilities. The exemptions in this subsection are limited to  
16 purchases made for use in the exempt health care activities or  
17 services that are licensed or certified by the Department of Health  
18 and Human Services.

19 (9) Sales and use taxes shall not be imposed on the gross  
20 receipts from the sale, lease, or rental of and the storage, use,  
21 or other consumption in this state of purchases by any nonprofit  
22 licensed hospital. The exemption in this subsection is limited to  
23 purchases made for use at the facility or the portion of a facility  
24 that is licensed under the Health Care Facility Licensure Act,  
25 for use in the exempt health care activities or services that are

1 licensed under the act, or for use at a nonprofit health clinic  
2 exempt under subsection (10) of this section.

3 (10)(a) Sales and use taxes shall not be imposed on  
4 the gross receipts from the sale, lease, or rental of and the  
5 storage, use, or other consumption in this state of purchases by  
6 any nonprofit health clinic if one or more nonprofit hospitals or  
7 the parent corporations of the nonprofit hospitals own or control  
8 the nonprofit health clinic for the purpose of reducing the cost of  
9 health services or if the nonprofit health clinic receives federal  
10 funds through the United States Public Health Service for the  
11 purpose of serving populations that are medically underserved.

12 (b) For purposes of this subsection, nonprofit health  
13 clinic means:

14 (i) Rural health clinic as defined by 42 U.S.C. 1395x,  
15 as such section existed on January 1, 2010, and organized not for  
16 profit; or

17 (ii) Health clinic as defined in section 71-416 and  
18 organized not for profit.

19 (c) The exemptions in this subsection are limited to  
20 purchases made by a nonprofit health clinic for use at the  
21 nonprofit health clinic.

22 (11) Sales and use taxes shall not be imposed on the  
23 gross receipts from the sale, lease, or rental of and the  
24 storage, use, or other consumption in this state of purchases  
25 by any nonprofit licensed (a) nursing facility, (b) skilled

1 nursing facility, (c) assisted-living facility, (d) intermediate  
2 care facility, (e) intermediate care facility for the mentally  
3 retarded, (f) home health agency, (g) hospice or hospice service,  
4 or (h) respite care service. The exemptions in this subsection are  
5 limited to purchases made for use at the facility or the portion  
6 of a facility that is licensed under the Health Care Facility  
7 Licensure Act or for use in the exempt health care activities or  
8 services licensed under the act.

9 (12) Any organization listed in subsections (7) through  
10 (11) of this section shall apply for an exemption on forms provided  
11 by the Tax Commissioner. The application shall be approved and  
12 a numbered certificate of exemption received by the applicant  
13 organization in order to be exempt from the sales and use tax.

14 (13) The appointment of purchasing agents shall be  
15 recognized for the purpose of altering the status of the  
16 construction contractor as the ultimate consumer of building  
17 materials which are physically annexed to the structure and  
18 which subsequently belong to the owner of the organization or  
19 institution. The appointment of purchasing agents shall be in  
20 writing and occur prior to having any building materials annexed  
21 to real estate in the construction, improvement, or repair. The  
22 contractor who has been appointed as a purchasing agent may apply  
23 for a refund of or use as a credit against a future use tax  
24 liability the tax paid on inventory items annexed to real estate  
25 in the construction, improvement, or repair of a project for a

1 licensed not-for-profit institution.

2 (14) Any organization listed in subsections (7) through  
3 (11) of this section which enters into a contract of construction,  
4 improvement, or repair upon property annexed to real estate without  
5 first issuing a purchasing agent authorization to a contractor  
6 or repairperson prior to the building materials being annexed to  
7 real estate in the project may apply to the Tax Commissioner for  
8 a refund of any sales and use tax paid by the contractor or  
9 repairperson on the building materials physically annexed to real  
10 estate in the construction, improvement, or repair.

11 (15) Any person purchasing, storing, using, or  
12 otherwise consuming building materials in the performance of any  
13 construction, improvement, or repair by or for any institution  
14 enumerated in subsections (7) through (11) of this section which  
15 is licensed upon completion although not licensed at the time of  
16 construction or improvement, which building materials are annexed  
17 to real estate and which subsequently belong to the owner of the  
18 institution, shall pay any applicable sales or use tax thereon.  
19 Upon becoming licensed and receiving a numbered certificate of  
20 exemption, the institution organized not for profit shall be  
21 entitled to a refund of the amount of taxes so paid in the  
22 performance of such construction, improvement, or repair and shall  
23 submit whatever evidence is required by the Tax Commissioner  
24 sufficient to establish the total sales and use tax paid upon  
25 the building materials physically annexed to real estate in the

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1 construction, improvement, or repair.

2                   Sec. 2. Original section 77-2704.12, Reissue Revised

3 Statutes of Nebraska, is repealed.